

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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CORY EPPS,

Plaintiff,

v.

Case No. 1:19-cv-00281

THE CITY OF BUFFALO,  
DETECTIVE JOHN BOHEN,  
DETECTIVE REGINALD MINOR,  
DETECTIVE MARK STAMBACH,  
DETECTIVE JAMES GIARDINA,  
DETECTIVE ANTHONY COSTANTINO,  
DETECTIVE ROBERT CHELLA,  
RANIERO MASSECHIA, CHARLES ARONICA,  
AND CHIEF JOSEPH RIGA,

Defendants.

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**DECLARATION IN SUPPORT OF MOTION FOR SUMMARY  
JUDGMENT**

**PETER A. SAHASRABUDHE**, under penalty of perjury and pursuant to 28 U.S.C. § 1746, declares the following to be true and correct:

1. I am an attorney associated with Hodgson Russ LLP, attorneys for the City of Buffalo and each of the above-named individual defendants in this action. I am duly admitted to practice law in the State of New York and in this District.

2. I submit this declaration in support of the defendants' motion for summary judgment, which seeks an order disposing of each of the five causes of action brought by plaintiff, Cory Epps. The purpose of this declaration is to place before the Court the relevant

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documentary and testimonial evidence necessary for the Court's consideration of defendants' motion.

### **Pleadings**

3. Epps's complaint in this matter, which is dated March 1, 2019, is provided as **Exhibit 1**. Epps's complaint states five causes of action, which are fully described in the accompanying Memorandum of Law.

4. The defendants' answer to Epps's complaint, which was filed and served on May 1, 2019, is provided as **Exhibit 2**. The defendants' answer asserted various affirmative defenses, including qualified immunity for the individual defendants and absolute immunity for the individual defendants with respect to any testimony they gave in judicial proceedings.

### **Deposition Testimony**

5. A true and accurate transcript of the deposition testimony given by defendant John Bohen is provided as **Exhibit 3**.

6. A true and accurate transcript of the deposition testimony given by defendant Reginald Minor is provided as **Exhibit 4**.

7. A true and accurate transcript of the deposition testimony given by defendant Mark Stambach as is provided as **Exhibit 5**.

8. A true and accurate transcript of the deposition testimony given by defendant James Giardina is provided as **Exhibit 6**.

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9. A true and accurate transcript of the deposition testimony given by defendant Anthony Costantino is provided as **Exhibit 7**.

10. A true and accurate transcript of the deposition testimony given by Wymiko Anderson is provided as **Exhibit 8**.

11. A true and accurate transcript of the deposition testimony given by Jaqueline Bradley is provided as **Exhibit 9**.

**Other Relevant Testimonial Evidence**

12. A true and accurate transcript of grand jury testimony given by Jaqueline Bradley in connection with criminal charges brought against Epps in 1997 is provided as **Exhibit 10**.

13. A true and accurate transcript of trial testimony given by Jaqueline Bradley in connection with Epps's criminal trial in 1998 is provided as **Exhibit 11**.

14. A true and accurate transcript of testimony given by Wymiko Anderson in connection with a post-conviction motion brought by Epps in 2000 is provided as **Exhibit 12**.

15. A true and accurate transcript of testimony given by Mark Stambach in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 13**.

16. A true and accurate transcript of testimony given by James Giardina in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 14**.

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17. A true and accurate transcript of testimony given by Anthony Costantino in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 15**.

18. A true and accurate transcript of a *Wade* hearing held before New York County Court Judge Joseph McCarthy is provided as **Exhibit 16**. The *Wade* hearing was held in connection with criminal charges brought against Epps in 1997.

**Affidavits and Other Judicial Documents**

19. An affidavit signed by former Erie County Assistant District Attorney Patricia Carrington in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 17**.

20. An affidavit signed by Wymiko Anderson in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 18**.

21. An affidavit signed by Anthony Costantino in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 19**.

22. An affidavit signed by Mark Stambach in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 20**.

23. An affidavit signed by James Giardina in connection with Epps's 2000 post-conviction motion is provided as **Exhibit 21**.

24. An application made by ADA Carrington for an order directing Epps to appear for an in person lineup in July of 1997 is provided as **Exhibit 23**.

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25. An order issued by New York County Court Judge Timothy Drury granting ADA Carrington's application for an in person lineup is provided as **Exhibit 24**.

26. An order issued by New York Supreme Court Justice Joseph McCarthy denying Epps's post-conviction motion which sought reversal of his conviction on the grounds of newly discovered evidence is provided as **Exhibit 25**.

27. An order issued by New York Supreme Court Justice Joseph McCarthy denying Epps post-conviction motion which sought reversal of his conviction based on an alleged violation of *Brady v. Maryland*, 373 U.S. 83 (1963) is provided as **Exhibit 26**.

28. An order issued by Judge McCarthy denying Epps's motion to preclude evidence of identification procedures implemented by the Buffalo Police Department and Erie County District Attorney's Office is provided as **Exhibit 27**.

#### **Other Documentary Evidence**

29. A true and accurate copy of a photo array shown by John Bohen to Jaqueline Bradley on July 6, 1997, along with an affidavit signed by Bradley in connection with the photo array, is provided as **Exhibit 28**.

30. A true and accurate copy of previous photo array shown by John Bohen to Bradley is provided as **Exhibit 29**.

31. A true and accurate copy of a photo array put together by non-party, Juan Morales, is provided as **Exhibit 30**.

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32. A copy of an indictment issued against Epps on August 7, 1997 is provided as **Exhibit 31**.

33. A copy of a statement by Wymiko Anderson given to homicide detectives on April 17, 1997 is provided as **Exhibit 32**.

34. A copy of an anonymous letter authored by Wymiko Anderson after Epps's conviction is provided as **Exhibit 33**.

35. A copy of a statement given by Cory Epps to police in July of 1997 is provided as **Exhibit 34**.

36. True and accurate copies of police reports generated by John Bohen during his investigation of the Tomika means are collectively provided as **Exhibit 35**.

**Witness 1**

37. Epps's conviction for the murder of Tomika Means was vacated based on an account given by an individual whose identity the parties are keeping secret. However, defendants wish to file this witness's statement and testimony with the Court under seal to provide the Court with context for why Epps's conviction was overturned.

38. Provided as **Exhibit 36**, which will be filed under seal after an appropriate application to the Court, is an affidavit signed by Witness 1 on September 14, 2014.

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39. Provided as **Exhibit 37**, which will be filed under seal after an appropriate application to the Court, is a copy of testimony given by Witness 1 in 2017 in connection with post-conviction proceedings which ultimately led to the reversal of Epps's conviction.

40. Provided as **Exhibit 38** is the deposition testimony of Joseph Riga, which describes his interview and interactions with Witness 1.

41. Provided as **Exhibit 39** is the 2017 order vacating Epps's 1998 criminal convictions.

#### **Miscellaneous Exhibits**

42. Provided as **Exhibit 40** is an excerpt from a statement of facts in a submission filed in connection with Epps's criminal proceedings. The statement of facts relays that the exact date of Epps's indictment is August 7, 1997. Upon information and belief, this is the date when Epps was indicted.

#### **Conclusion**

43. Based on the evidence submitted here, and based on the arguments presented in the accompanying Memorandum of Law, defendants respectfully request that the Court grant their motion for summary judgment in its entirety, and that the Court grant such other additional relief as it may deem just and proper.

Dated: Buffalo, New York  
October 7, 2022

//s Peter A. Sahasrabudhe  
PETER A. SAHASRABUDHE